

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BEULAH JOHNSON,

Plaintiff,

- against -

NEW YORK CITY
DEPARTMENT OF EDUCATION,

Defendant.
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FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ JUN 01 2011

BROOKLYN OFFICE

*Rec'd
6/1/11*

MEMORANDUM AND ORDER

08-CV-5260 (ENV) (LB)

VITALIANO, D.J.

Pro se plaintiff Beulah Johnson commenced this action against the New York City Department of Education ("DOE"), alleging discrimination based on national origin, age, and retaliation.¹ By Memorandum and Order dated April 20, 2011, the Court dismissed plaintiff's national origin discrimination and retaliation claims with prejudice pursuant to Rule 12(b)(6) and granted her leave to file an amended complaint with respect to her age discrimination claim. Johnson filed an amended complaint on May 20, 2011.

Plaintiff's amended complaint does not fulfill the conditions of the leave granted her and graphically demonstrates the futility of the effort. Finding that Johnson's claim was insufficiently pled, the Court specifically cautioned that the "amended complaint [would] not ultimately survive unless she [could] establish that age was a 'but for' cause of her termination. (April 20, 2011 Memorandum and Order). Yet, plaintiff's amended complaint adds absolutely nothing to her age discrimination claim. Instead, she provides a litany of reasons why the Court was incorrect in dismissing the other claims and reasserts her arguments that DOE's termination was improper. Even construing all her pleadings liberally, Johnson has not stated a claim for age

¹ For additional facts and background, please refer to the Court's Memorandum and Order dated April 20, 2011.

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discrimination. Given the opportunity to do so, plaintiff, in short, has made no attempt to replead her age claim. Given the expense of her extraneous revision, it strongly suggests she has nothing new to allege in support of that claim. Therefore, Johnson's age discrimination claim is now dismissed with prejudice as well.

The Clerk of the Court is directed to enter judgment for defendants and close this case.

SO ORDERED.

Dated: Brooklyn, New York
May 31, 2011

ERIC N. VITALIANO
United States District Judge